

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 Pursuant to N.D. Cal. Civil Local Rule 7-11, Plaintiff moves the Court to either stay the present
 3 action or allow Plaintiff leave of Court to file a motion to stay proceedings in this Court. The reason
 4 for the request is due to changed circumstances in litigation pending before the Contra Costa County
 5 Superior Court. That Court has recently issued an order preliminarily approving a proposed “claims
 6 made” settlement with a defined class that includes not only Plaintiff and the class she seeks to
 7 represent but also the California CCPA claims alleged by Plaintiff in this case. Plaintiff believes the
 8 proposed stay is appropriate to allow for required review of the proposed settlement to proceed to
 9 finality.

10 **I. ACTION REQUESTED**

11 An order staying proceedings in this case pending the Contra County Superior Court’s review
 12 of a proposed settlement, or in the alternative, leave of Court to file a motion staying further
 13 proceedings in this Court.¹

14 **II. REASONS SUPPORTING PLAINTIFF’S REQUEST**

15 **A. Procedural Background**

16 On June 18, 2022, Plaintiff filed her complaint in Marin Superior Court against Defendant
 17 Audi of America wherein she asserted claims of negligence and violation of California’s Unfair
 18 Competition Law (“UCL”). On September 24, 2021, Plaintiff filed her First Amended Complaint
 19 (FAC) wherein she voluntarily dismissed her negligence claim and added a cause of action under the
 20 CCPA seeking statutory penalties. Plaintiff also named Audi of America, LLC, Sanctus LLC dba Shift
 21 Digital, LLC and Volkswagen Group of America as defendants. (*Ibid.*) On November 2, 2021,
 22 Defendants removed Plaintiff’s action to this district court pursuant to CAFA. (Dkt. 1.)

23 On August 30, 2022, another set of plaintiffs with cases against Defendants (formerly before
 24 this Court), filed a class action complaint in Contra Costa County Superior Court (the “*Hajny* action”).
 25 As the Court noted in its September 15, 2022 Order on Outstanding Motions, the plaintiffs in the *Hajny*

26 _____
 27 ¹ The Court should recall issuing an order at the last hearing that no motions may be filed in this case
 28 without first making an administrative motion request.

1 action had apparently entered into a nationwide settlement agreement with Defendants on September
 2 6, 2022. (Dkt. 85 citing to Dkt. 80.) In that order, the Court declined to stay this action despite the
 3 putative *Hajny* settlement because there had been no resolution of the preliminary approval motion as
 4 of that date. (Dkt. 85.)

5 On November 17, 2022, the Contra Costa County Superior Court denied Plaintiff's motion
 6 seeking to intervene. On December 23, 2022, the Contra Costa County Superior Court issued an order
 7 granting plaintiff Hajny's motion for preliminary approval. See, Exhibit 1, attached hereto.

8 **B. The Preliminary Approval Order**

9 The December 23, 2022, preliminary approval order (Ex. 1) certified a "claims made"
 10 settlement class defined as persons residing in the United States to whom VWGoA and/or Audi sent
 11 notice that their SP1 and/or PI may have been exposed as result of the Incident. Within the class
 12 certified by the Superior Court, there are three subclasses: Tier 1 (California Residents whose SPI was
 13 exposed); Tier 2 (non-California residents whose SP1 was exposed); and Tier 3 (nationwide class
 14 members whose PI (not SPI) was exposed). See, Exhibit 1, p. 2, para 7.

15 Plaintiff, Amy Wynne, including the proposed class she seeks to represent in the instant action,
 16 are now members of the class conditionally certified in the preliminary approval order issued by the
 17 Superior Court. Pending completion of the further review process by the Contra Costa County Superior
 18 Court – and pending resolution of appeals, if any – Plaintiff believes the instant action should be stayed
 19 both in the interest of judicial economy and to avoid duplicative rulings.

20 **C. Meet and Confer**

21 Plaintiff's counsel met and conferred with Defense counsel. The issue was first raised on
 22 January 19, 2023, by Plaintiff's counsel. When no response was received, Plaintiff's counsel raised
 23 this issue in a follow up email on January 23, 2023. Defense counsel responded on January 23, 2023
 24 asking for a draft of what Plaintiff intended to file. A draft motion was provided to Defense Counsel
 25 on January 24, 2023. Defense counsel responded by email: "Defendants do not join in this motion but
 26 do not oppose the relief sought." See, Declaration of Matthew Righetti setting forth these meet and
 27 confer efforts.

1 **III. CONCLUSION**

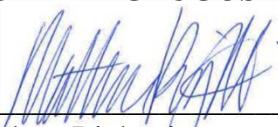
2 Based on the foregoing reasons, Plaintiff requests that the Court stay the present action and set
3 the matter for a status conference after June 2023 (i.e., after the anticipated final approval hearing in
4 Contra Costa County Superior Court). In the alternative, Plaintiff requests leave of Court to file a
5 motion seeking the same relief.

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7 DATED: January 25, 2023

Respectfully Submitted,

8 **JONES LAW FIRM LLC**

9 **RIGHETTI GLUGOSKI, P.C.**

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11 Matthew Righetti
12 Attorney for Plaintiff

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